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Paper No. 4

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OFFICE OF PETITIONS

In re Application of  
Charles Tapalian et al  
Application No. 09/896,520  
Filed: June 28, 2001  
Attorney Docket No. CSLL-628 56247-  
165

: DECISION GRANTING  
: PETITION  
:  
:  
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This is a decision on the petition filed September 28, 2001, which is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of June 28, 2001, rather than the presently accorded filing date of June 29, 2001.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on June 28, 2001. In support, applicants provided a copy of the Express Mail label, receipt no. EL721016725US, showing a Date-In of June 28, 2001. The same Express Mail receipt number was referred to in the copy of the original application transmittal letter submitted with the present petition. Applicants request that the application be accorded a filing date of June 28, 2001.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on June 28, 2001.

The petition is granted. The \$130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to Initial Patent Examination Division to await applicants' response to the Notice mailed August 21, 2001, and for correction of the filing date to June 28, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy